CF 1001

(3)

IN THE HIGH COURT OF JUDICATURE CHHATTISGARH AT BILASPUR

W.P. No. 3957 2003

Petitioner : Madan Yadu S/o Late J.L.Yadu, aged about 56 years, R/o Civil Line, Dhamtari, Dist : Dhamtari-(C.G.),

Versus

Respondents :

1. State of Chhattisgarh through the Secretary Health Department DKS Bhawan, Raipur, Dist : Raipur-(C.G.)
2. The Director Health Services Raipur, Dist : Raipur-(C.G.)
3. The Chief Medical & Health Officer Dhamtari, Dist : Dhamtari-(C.G.)
4. The Collector Dhamtari, Dist : Dhamtari-(C.G.)

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WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA

Agarwal

(65)

HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR

Single Bench: Hon'ble Shri Satish K. Agnihotri, J.

W. P. No. 3957 OF 2003

Petitioner : Madan Yadu

Versus

Respondents : State of Chhattisgarh & others

Shri P. Diwakar, Senior Advocate with Ms. Sunita Jain, counsel for the petitioner.
Shri Sandeep Dubey, Govt. Advocate for the State/respondents.

ORAL ORDER

(23rd February, 2006)

The petitioner was working as Health Assistant in Primary Health Centre, Gujra, District-Dhamatari was transferred by order dated 25-11-2003 **(Annexure P-14)** to Sector-Achchota, under Primary Health Centre, Gujra.

2. Learned counsel for the petitioner submits that the petitioner is suffering from serious ailments i.e. ***Haemorids with Fissure in his Rectum.*** In case, the petitioner is transferred as Health Assistant in Sector-Achchota under Primary Health Centre-Gujra, the petitioner may be required to visit various places by bicycle and that may aggravate his ailment.

3. This Court by order dated 19-12-2003 directed that the petitioner may be allowed to continue on the post of Sanganak (Computer) till the next date of hearing. This interim order dated 19-12-2003 was neither varied nor modified later on. The petitioner has continued to work at old place in the capacity of Sanganak (Computer). The petitioner has been granted final relief by the interim order.

(66)

4. It is well settled principle of law that transfer is an incident of service and it is for the employer to decide as to where particular officer/employee be posted keeping in view public interest as well as administrative exigency. This Court has limited jurisdiction to interfere in the transfer matter and this Court can interfere only in the case of proved malafide, non-competence of authority passing the transfer order and transfer order not being in conformity with the rules and regulations. The petitioner/employee cannot be permitted to remain at one place, forever, by Court orders. At this stage, it is not necessary to go into the validity of the impugned order. However, in the facts of the case, the respondents are directed not to insist upon compliance of the impugned transfer order dated 25-11-2003 (**Annexure P-14**) and may consider his health problem for posting at a place where he may not be required to undertake visits to several places by bicycle.

5. In view of the foregoing, the petition stands disposed of. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge